



**Town of Stow
Zoning Board of Appeals**

**Rules and Regulations
Comprehensive Permit Application**

Adopted November 4, 2002
Amended September 2010
Amended December 12, 2022

Filed with the Town Clerk 01/03/2023

**ZONING BOARD OF APPEALS
STOW, MASSACHUSETTS 01775**

**RULES and REGULATIONS
For COMPREHENSIVE PERMIT APPLICATION**

The following Rules and Regulations are in addition to any other Rules and Regulations of the Board of Appeals (the Board) which shall continue to apply to the extent not inconsistent with these regulations, Chapter 40B of the Massachusetts General Laws or any rules and regulations adopted thereunder.

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A. Purpose and Context

These rules establish procedures for applications to the Zoning Board of Appeals for Comprehensive Permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969) and Mass. General Laws Chapter 40B, Sections 20 through 23. They are required by M.G.L. Chapter 40B, Section 21, as amended by Stat. 1989, Chapter 593 and by 760 CMR 31.02, and are adopted pursuant to said references and M. G.L Chapter 40A, Section 12. The purpose of these rules is to facilitate the development of affordable housing in Stow, and to govern the procedures to be followed in connection with the filing and consideration by the Board of an application for a Comprehensive Permit. Further explanation of the background and purpose is provided in the regulations of the Housing Appeals Committee, 760 CMR 30.01, as amended.

Under Chapter 40B, the Board has authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances. The Board also has authority to grant waivers of local requirements if requested by the applicant and necessary to construct the proposed project. The Board’s mechanism for taking these actions is a single comprehensive (all-encompassing) permit, the purpose of which is to expedite the approval process and facilitate construction of low- or moderate-income housing.

The Board’s jurisdiction includes zoning, subdivision regulations, and other types of local bylaws or ordinances and regulations, e.g., a local historic district bylaw, earth removal, storm water management, or local wetlands regulations. The Board does not have the authority to waive state requirements. Therefore, the Conservation Commission retains jurisdiction when a project requires permits under the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40. and the Board of Health retains jurisdiction under Title V of the State Environmental Code, 310 CMR 15.00.

These rules alone are not sufficient to describe comprehensive permit procedures before the Zoning Board of Appeals. They must be read in conjunction with and implemented in a manner consistent with the complete regulations of the Housing Appeals Committee, 760 CMR 30.00 and 31.00, and with the Guidelines for Local Review of Comprehensive Permits, published periodically by the Executive Office of Communities and Development, or other relevant successor or additional publication. In addition, the Board’s general rules for conduct of hearings under M.G.L. Chapter 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules and these, these rules shall govern.

B. Recommended Actions Prior to Submission of Application

In an effort to streamline the comprehensive permit timeline, the Board highly recommends that the applicant meet with neighbors before the application filing and/or public hearing and outside the public hearing process to address neighborhood concerns in advance, wherever possible.

C. Definitions

1. “the Board” means the Zoning Board of Appeals established under M.G.L. Chapter 40A, Section 12

2. "Local Board" means any local board or official, including but not limited to, the Select Board; Board of Health; Planning Board; Conservation Commission; Historical Commission; fire, police, highway, building or similar official or board. All Boards, regardless of their geographical jurisdiction or their source of authority including boards created by special acts of legislature or by other legislative action) shall be deemed local board if they perform functions usually performed by locally created boards.
3. "Local preference" means that residents and others with a connection to the community may receive an advantage during the lottery for initial occupancy that is used to select buyers or renters for new affordable housing units. Local preference categories consist of the following:
 - Current residents of the town; people living in the Town of Stow at the time of application for the lottery. (The applicants must be current residents. They cannot be former residents such as people who grew up in the town and subsequently moved away, or non-resident relatives of current residents.)
 - Municipal employees
 - Employees of local business (businesses located in the Town of Stow)
 - Households with children attending schools located in the Town of Stow or participants in the "School Choice Program"

Preference cannot be limited to people who have lived, worked, or had children attend the community's schools for some minimum period of time. Preference eligibility is based solely on a person's residence, employment status, or school enrollment at the time of the lottery for initial occupancy.

D. Contents of Application

The application for comprehensive permit shall consist of fifteen (15) sets and (1) electronic copy (PDF) of the following:

Plans shall be drawn at a scale of 1-inch equals 40 feet, on sheets 24 inches by 36 inches (larger sheets are acceptable up to 30 inches x 42 inches).

In addition to full scale plans, 7 copies of 11-inch by 17-inch reduced size plans shall be submitted.

1. Existing Conditions Plan, drawn to scale, including all of the following, where applicable in the Board's opinion:
 - a. Property lines with approximate dimensions
 - b. Easements within and immediately adjacent to property
 - c. The approximate locations of all structures, wells, and septic systems within 150 feet of the subject property.
 - d. Topography at 2-foot contours
 - e. Mapping of soils from USDA soil surveys
 - f. Subsurface soil and groundwater conditions
 - g. Wetland Protection Act Regulated Resource Areas with buffer zones
 - h. Perennial and intermittent streams
 - i. Depiction of existing vegetation (limits of woodlands, grasslands, etc.)

- j. NHESP Priority and Estimated Habitats
 - k. Limits of 100-year Flood Plain
 - l. Surface Water Protection Areas
 - m. Existing roadways and structures including those within 100 feet of property boundaries
 - n. Utilities (water, sewer, gas, electric)
 - o. Zoning Districts (including Overlay Districts)
2. Proposed Conditions Plan, drawn to scale, including where applicable:
- a. Building footprints
 - b. Parking spaces (delineated), including accessible spaces
 - c. Access roadway and/or driveway
 - d. Profile of roadway
 - e. Sidewalks, walkways, and curbing
 - f. Retaining walls
 - g. Tabulation of proposed buildings, impervious area, and open space
 - h. Proposed topography at 2-foot contours
 - i. Limit of work
 - j. Landscaped areas
 - k. Open space and recreation area(s)
 - l. Storm water management including culverts, conveyance system, and treatment facilities
 - m. Pre-development and post-development watershed catchment areas
 - n. Utilities (water, sewer, gas, electric)
 - o. Subsurface Wastewater Disposal in compliance with Title 5
 - p. Regulated Resource Area mitigation
 - q. Erosion and sedimentation controls
 - r. Snow storage areas
 - s. Preliminary architectural drawings to scale: locations and outlines of proposed buildings
 - t. Applicable construction details developed with sufficient clarity to describe the activity
 - u. Zoning Districts (including Overlay Districts)
3. Narrative Including:
- a. Description of project
 - b. Storm water Management Report (in compliance with the Massachusetts Stormwater Handbook, at minimum)
 - c. Soil Evaluation Report
 - d. Verification that appropriate infrastructure is available or obtainable (specifically water and sewer), with sufficient capacity to support the project
 - e. Traffic study, where applicable as determined by the Board
4. A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas.

5. Where a subdivision of land is involved, a preliminary subdivision plan.
6. Documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01:
 - a. The applicant shall be a public agency, a non-profit organization, or a limited dividend organization;
 - b. The project shall be funded by a subsidizing agency under a low- and moderate-income housing subsidy program; and
 - c. The applicant shall control the site.
7. A list of requested exceptions to local requirements and regulations, including local codes, ordinances, bylaw, or regulations. The list shall include
 - (a) Identification of the specific bylaw, rule or regulation by name and chapter, section, and subsection;
 - (b) Reason and justification for requesting the exception; and
 - (c) Financial Impact on the project's development cost to comply.
8. Complete list of all abutters and abutters of abutters, in accordance with M.G.L. Chapter 40A, Section 11, within 300 feet certified by the Board of Assessors or its designee.
9. "Site approval letter" from State, Federal or other qualified funding agency indicating acceptability of site.
10. Draft of Notice of Public Hearing, leaving the date and time blank.
11. Draft Regulatory Agreement between the applicant and the Town of Stow which shall, at a minimum, provide:
 - a. The project shall be limited to a total profit of twenty (20%) before taxes in accordance with M.G.L. C. 40B
 - b. Agreement to submit to the Board a full compilation and certification of total development costs and total revenues within sixty days of the sale of the last unit. Such compilation and certification shall be prepared according to generally accepted accounting standards by a Certified Public Accountant, acceptable to the Board and paid by the applicant.
 - c. A statement that any profit in excess of the allowable profit permitted by M.G.L C. 40B shall be paid to the Town for use in the development of the Town's affordable housing inventory, or at the applicant's option and request, and with the Board's approval, additional affordable units, over and above those already provided for in the Comprehensive Permit, may be prepared and provided at the Site for the C. 40B Project, so as to reduce the project's profit to allowable limits. Such request shall be treated as a modification to the Comprehensive Permit and shall in no event result in a total of more than total number of permitted units to be constructed on the site.
 - d. Affordable Units shall be sold by lottery, subject to a 70% local preference

requirement. Such lottery shall be conducted in accordance with all applicable requirements of law. All expenses of the lottery to be paid by the applicant.

- e. Designation of the Monitoring agent for the purposes of issuing and approving the initial marketing, condominium fees and allowable resale provisions. A monitoring Service Agreement similar in form to that approved and published by the MHFA may be used.

12. Draft Condominium or Home Owner Association documents, agreements and homeowner documents which shall, at a minimum, provide:

- a. A pro forma copy of the unit deed proposed for the affordable units, with proposed language ensuring that such units are affordable in perpetuity and to satisfy all requirements of the Regulatory Agreement.
- b. Obligations of the Condominium Association or Homeowners Association for the operation and maintenance of all common areas, including the water system and common wells, sewage treatment system, stormwater management system, landscaping, ways, and other improvements within the subject property.
- c. Condominium fees for affordable units and moderate-income units to be established as a percentage of the condominium fees for the market rate units, prorated according to the percentage the initial sales price of the Affordable Units bears to the initial sale price of the market rate units.
- d. Residents shall be included in the Condominium or Homeowners Association as non-voting members until such time the Condominium or Homeowners Association is transferred to the residents.
- e. A plan for transfer of the Condominium Association or Homeowners Association to the residents.
- f. Establishment of a 12-month sufficient balance in a Condominium or Homeowners Association maintenance fee account in order to accommodate ongoing operation and maintenance and/or repair for the operation and maintenance of all common areas, including the water system and common wells, sewage treatment system stormwater management system, landscaping, ways, and other improvements with the subject property. No later than when 50% of occupancy permits have been issued, an audit shall be conducted by a Certified Public Accountant, at the applicant's expense, to determine "sufficient" funds and shall be submitted to the Condominium or Homeowners Association and the Board.

All final documents noted in this section shall be subject to the approval of the Board.

13. Application Fee

E. Application Fee

The Application Fee is \$500.00, plus \$50.00 for each unit of housing. There shall be no filing fee for any project proposed as a local initiative pursuant to 760 CMR 45.00.

F. Consultant Review Fees

- 1. If the Board determines that it requires technical advice unavailable from municipal employees, it may employ outside consultants. To ensure compliance with M. G. L.

Chapter 40B, these regulations, and to ensure that the public safety will be protected, the Board may select and hire outside traffic, engineering, ecological and planning consultants to review an application. Pursuant to M.G.L. Chapter 44, Section 53G, to cover the cost of these reviews, a review fee deposit may be required of an applicant at the time of submission or at any appropriate time in the review process. As the scope of study and review will vary according to the size of a particular project, the applicant is strongly advised to consult the Board concerning the scope and cost of any such studies during the preliminary review. Failure to do so could result in serious delays in the processing of the Application. The amount of the fee deposit will reflect the anticipated consultant fee/s plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of building permits for the proposed construction plus any remaining accrued interest will be repaid to the applicant or the applicant's successor in interest.

2. Appeal From the Selection of the Consultants – In accordance with M.G.L., Chapter 44, Section 53G, the applicant may appeal the selection of an outside review consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The applicant must specify the specific grounds which the applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements.

G. Comments from Town Boards and Committees

Within seven (7) days of filing of the application, the Board shall provide copies of the application and plans to the following Boards and Committees together with a request to review, comment, and their attendance at the public hearing.

- „ Planning Board
- „ Conservation Commission
- „ Board of Health
- „ Stow Municipal Housing Trust
- „ Select Board
- „ Board of Assessors
- „ Highway Department
- „ Police Department
- „ Fire Department
- „ Building Commissioner
- „ Historic Commission
- „ Economic Development and Industrial Commission

H. Public Hearing and Decision Timelines

1. The Board shall hold a public hearing on the application within thirty (30) days of its receipt, in accordance with the provisions of M.G.L Chapter 40B, Section 21. It may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall

take into consideration the recommendations of local officials. In the event of incomplete applications i.e., not filed in accordance with these Rules and Regulations or the provisions of Chapter 40B, Sections 20-23 or 760 CMR 30.01, et seq., then the Board may open and continue the hearing until such filing is complete.

2. Within 180 days from the opening of the Public Hearing, the Board must close the public hearing unless the applicant has agreed in writing to an extension.
3. The Board shall render a decision based on a majority vote of the Board within forty (40) days after termination of the public hearing unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the Board has been received, and unless otherwise determined, at the date determined and stated by the Board at a public hearing.
4. If at any session of the public hearing on the application a quorum of the Board is not present, the hearing will be opened solely for the purpose of scheduling a date, time and place for the hearing or any continued session thereof to commence. In the event that less than a five (5) member board shall be present on any night, whether known in advance of said hearing date or at the date, time and place of said session of the public hearing, the applicant will be afforded an opportunity to request, in writing, that the Board continue said hearing and schedule a date, time and place for such hearing or any continued session thereof. In such event, the hearing shall only be opened and immediately thereafter adjourned to another day, for the purpose of continuing the hearing and scheduling a date, time, and place for such continued hearing, without any evidence, documents or comments being received by the Board at such time. The Board shall make reasonable efforts to notify the applicant, the abutters or interested parties of such circumstances as far in advance of any hearing date scheduled and of the new date scheduled, so as to minimize the inconvenience to any applicant, abutter or interested party.
5. Public Hearing continuances and extensions of decision deadline must be approved in writing by the applicant and filed with the Town Clerk.
6. The Board may dispose of the application in the following manner;
 - (a) Approve a comprehensive permit with the terms and conditions set forth in the application;
 - (b) Approve the comprehensive permit with conditions; or
 - (c) Deny a comprehensive permit for reasons with respect to height, site plan, size, shape, building materials, or other appropriate subject matter and considerations as may properly apply. To the extent possible, the Board shall identify and specify such conditions to the applicant in advance of closing the public hearing and give the applicant the opportunity to consider such proposed condition(s) and comment thereon, in particular as to whether such condition is reasonable and consistent with local needs, render the construction or operation of such housing uneconomic or such other comment as the applicant deems appropriate prior to the decision of the Board.

I. Appeals

1. If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L Chapter 40A, Section 17.
2. If the Board denies the comprehensive permit or approves the permit with conditions or requirements unacceptable to the applicant, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. Chapter 40B, Section 22.

J. Final Plans, Permits and Documents

Any final or as-built plans, permits, certificates of approval, certificates of action, order of conditions other like documents shall be filed with the Board of Appeals immediately upon receipt by the applicant, as a condition of any decision of the Board.

K. Amendment to Approved Comprehensive Permit

Any change, amendment, or modification to an approved comprehensive permit, or approved plan referenced in a comprehensive permit, whether a substantial or insubstantial change, must be approved by a majority vote of the Board.

An application wishing to make a change to an approved comprehensive permit shall advise the Board in writing of the nature and extent of the proposed change. The applicant shall submit fifteen (15) copies of the plan in the same format including as required by Section D above, showing the proposed change or changes overlaid on the approved plan, on all relevant sheets of the plan. If the applicant is requesting a change to a written component, such as a condition of a comprehensive permit, the applicant shall submit the proposed change of the wording of the comprehensive permit. If other components of the project, as listed in Section D above, will change as a result of the proposed amendment, the applicant shall submit accompanying documents showing the resulting changes.

At a duly posted meeting, the Board shall review the request with the applicant and/or the applicant's representatives. The Board may seek assistance from an outside consultant or consultants, paid by the applicant, in determining whether the proposed change or changes constitute a substantial or insubstantial change; or determining whether to allow a substantial change to the approved comprehensive permit. "Substantial change" for the purposes of this paragraph shall include, but not be limited to, all matters as defined as substantial changes in 760 CMR 56.04 (5). If the Board finds the proposed change is substantial, the applicant shall submit an application to the Town Clerk, and the Board shall schedule a public hearing on the proposed change pursuant to requirements under M.G.L. Chapter 40B.

L. Effective Date of Rules and Regulations

These Rules and Regulations shall take effect immediately upon adoption by the Board and filing a copy thereof with the Town Clerk pursuant to M.G.L Chapter 40A, Section 12 and Chapter 40B, Section 21.

**TOWN OF STOW ZONING BOARD OF APPEALS APPLICATION FOR:
COMPREHENSIVE PERMIT**

File one (1) copy of the Application (including plans and reports as required by the Rules and Regulations), folded to fit neatly within a legal sized file folder, to the Town Clerk.

Received and Filed with Town Clerk

File fifteen (15) copies of the Application (including plans and reports as required by the Rules and Regulations), folded to fit neatly within a legal sized file folder, to the Zoning Board of Appeals along with an application fee payable to "Town of Stow" in the amount required by the Rules and Regulations. Refer to the Rules and Regulations for details on the information required.

APPLICANT'S NAME	PHONE #
	EMAIL:
MAILING ADDRESS:	
LOCATION AND STREET ADDRESS OF SITE	
AREA OF SITE _____ sq. ft./acres	FRONTAGE _____ linear feet
ZONING DISTRICT	TOWN OF STOW ASSESSOR'S MAP Number(s) _____ Parcel Number(s) _____
SOUTH MIDDLESEX REGISTRY OF DEEDS BOOK AND PAGE NO.(s): _____	
or LAND COURT CERTIFICATE OF TITLE NO.(s): _____	
PROPERTY OWNER(S) NAME	PHONE NO. _____
	EMAIL _____

APPLICATION FEE MADE PAYABLE TO TOWN OF STOW	\$500.00, PLUS \$50.00 FOR EACH UNIT OF HOUSING.
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The undersigned hereby certify that the information on this Application and plans submitted herewith are correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

APPLICANT

Date:	
Name (print)	Signature

OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the Application presented above.

Date:	
Name (print)	Signature

TRUST, CORPORATION OR COMPANY KNOWLEDGE AND CONSENT

Date:	
Name (print)	Signature